



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

AMENDED
FACT SHEET FOR H.B. 2227

~~child care monies; eligible organizations~~
(NOW: eligible organizations; registration; child care monies)

Purpose

Requires the Department of Health Services (DHS) to register an out-of-school time program (OST) provider that applies for registration, is exempt from child care facility licensure, seeks to receive child care assistance through federal Child Care and Development Fund (CCDF) monies and meets other outlined criteria. Outlines OST provider requirements and DHS administration.

Background

DHS licenses and regulates child care facilities and monitors their operation to ensure that the level of care being provided is adequate. The Director of DHS prescribes rules regarding the health, safety and well-being of the children to be cared for in a child care facility, including rules for adequate physical facilities, staffing, food and encouragement of parental participation (A.R.S. §§ [36-882](#) and [36-883](#)). The Department of Economic Security (DES) is prohibited from duplicating the DHS monitoring functions and must accept the decisions of DHS concerning compliance with licensing standards. DES may prepare and enter into financial agreements with child care providers. DHS exempts, from child care facility licensure requirements, care given to children in outlined circumstances, including: 1) in the homes of parents or blood relatives; 2) by a religious institution conducting a nursery in conjunction with its religious services or conducting parent-supervised occasional drop-in care; and 3) by any facility that provides training only in specified subjects (A.R.S. §§ [36-895](#) and [36-884](#)).

The CCDF allows each state flexibility in developing child care programs and policies that best suit the needs of children and parents within that state and assists states in delivering high-quality, coordinated early childhood care and education services to maximize parents' options and to support parents trying to achieve independence from public assistance. A CCDF Plan is the state's application for CCDF monies and provides information on the state's child care program and all services available to eligible families ([45 C.F.R. § 98.1\(a\)](#)).

DES administers the CCDF Program and serves as the state's Lead Agency. Each federal fiscal year, DES must pay at least 33 percent of the total amount of CCDF monies for tiered reimbursement of child care providers that meet accreditation from a national organization or a state-approved quality indicator that is recognized by DCS ([A.R.S. § 46-805](#)).

The National AfterSchool Association (NAA) fosters development, provides education and encourages advocacy for the OST community. The NAA partners with state affiliates to promote quality afterschool programs and professional development ([NAA](#)).

If there is a cost associated with collecting fees for OST program provider registration through DHS, there may be a fiscal impact to the state General Fund (state GF) associated with this legislation.

Provisions

OST Provider Registration

1. Exempts, from child care facility licensure requirements, an OST provider that:
 - a) operates primarily after school, before school or in the summer or at times when school is not normally in session;
 - b) serves only school-age children;
 - c) is organized to promote expanded childhood learning, enrichment, child and youth development or educational, recreational or character-building activities;
 - d) adopts standards for the OST program that, at a minimum, include minimum staff-to-youth ratios, staff training, applicable state and local health and safety standards and mechanisms for assessing and enforcing the OST program's compliance with the adopted standards; and
 - e) conducts state and national annual criminal background checks and sex offender registry checks for all employees and board members and for volunteers who work with children.

2. Requires DHS to register an OST provider that applies for registration, is exempt from DHS licensure, has a national governing board or accreditation from the NAA state affiliate, has been in existence for at least five years and seeks to receive child care assistance through CCDF monies that the state receives, if the provider:
 - a) is in compliance with health and safety requirements established by the OST provider's national governing board or the NAA state affiliate;
 - b) conducts programs or portions of programs that operate primarily during times when school is not normally in session;
 - c) serves only school-age children;
 - d) is organized to promote expanded childhood learning, enrichment, child and youth development or educational, recreational or character-building activities;
 - e) adopts standards for its programs that, at a minimum, include at least 1 OST program staff member per 20 youth, staff training, applicable state and local health and safety standards and mechanisms for assessing and enforcing the OST program's compliance with the standards;
 - f) conducts state and national annual criminal background checks and sex offender registry checks for all employees and board members and for volunteers who work with children and makes screening and hiring decisions based on the outcomes of those checks;
 - g) requires Level I fingerprint clearance cards for all employees and volunteers working at the OST program;
 - h) regularly trains all employees in cardiopulmonary resuscitation and first aid;
 - i) requires that all employees are mandated child abuse reporters;
 - j) maintains health and safety policies and procedures for the following:
 - i. child abuse prevention and response, including guidance on staff-to-child ratios and prohibition of private one-on-one interactions between youth and staff, volunteers and board members;
 - ii. a workplace and learning environment that is drug and alcohol free;
 - iii. internal incident reporting and investigation;

- iv. emergency preparedness and response;
 - v. transportation, if applicable;
 - vi. acceptable uses of technology, including prohibiting inappropriate technology-based interactions between youth and staff, volunteers, board members and other youth during and after program hours;
 - vii. communication during emergencies; and
 - viii. required behavioral interventions;
- k) obtains and maintains records, consistent with the OST provider's confidentiality policies, that include for each child:
- i. the first and last name and date of birth;
 - ii. the name, address and telephone number of each parent;
 - iii. emergency contact information;
 - iv. written authorization for medical care;
 - v. records, verified by staff, of program attendance; and
 - vi. records of serious injuries and deaths;
- l) maintains, for each OST provider operating a program, comprehensive, general liability and sexual misconduct insurance, each with a minimum policy limit of \$1,000,000 per occurrence and \$3,000,000 in aggregate; and
- m) has not had a child care facility license either denied in the preceding 12 months or revoked in the preceding five years.
3. States that the child care facility licensure exemption does not apply to an OST provider if the provider would otherwise meet another outlined exemption or licensure requirement, unless the OST provider submits a notice of its intent to register with and be exempt from DHS licensure.
4. Prohibits an OST provider from being exempt from the child care facility licensure requirements without being registered with DHS.
5. Requires DES, with the approval of the federal government, to amend Arizona's CCDF Plan to allow for registered OST providers that meet specific criteria to receive child care assistance through CCDF monies that the state receives.
6. Requires each registered OST provider to file with DHS the most current health and safety requirements established by the provider's national governing board or the NAA state affiliate.
7. Requires an OST provider to ensure that:
- a) there is a qualified director who is responsible for the day-to-day operation of the program;
 - b) there is a director's designee with the authority to act on behalf of the director when the director is not on-site;
 - c) OST program staff members who count toward the OST program staff-to-youth ratios are at least 18 years old, meet all of the applicable training standards and qualifications established by DHS and are able to work independently; and
 - d) all assistant OST program staff members are at least 16 years old, work under the direct supervision of OST program staff members and do not count toward the OST program staff-to-youth ratios.

8. Requires the OST provider director to be at least 21 years old and:
 - a) have either an associate, bachelor's or graduate degree from an accredited college or university or have successfully completed at least 12 semester credit hours of college or university-level coursework in child development, early childhood education or elementary education, or a related field; or
 - b) possess equivalent skills acquired through alternative experiences such as relevant job training, community college attendance, military service or an apprenticeship.
9. Requires the director's designee to be at least 21 years old and able to work independently.
10. Requires the director or the director's designee to be at the facility whenever youth are in attendance.
11. Requires each registered OST provider to:
 - a) comply with applicable health and safety standards established by DHS for OST providers serving school-age children;
 - b) comply with any state tracking and reporting system required to receive child care assistance through CCDF monies that the state receives; and
 - c) conspicuously post a statutorily prescribed notice.

DHS OST Provider Administration

12. Allows DHS to establish a fee, determined by the Director of DHS, for the registration of an OST provider.
13. Requires DHS, if there is a conflict with DHS's applicable health and safety standards, to conduct an internal review process and consult with the registered OST provider to ensure substantial compliance with DHS's health and safety standards.
14. Requires DHS to establish the qualifications and training standards for OST program staff after consulting with the NAA state affiliate regarding quality standards developed for school-age OST programs and reviewing OST professional development frameworks and quality tools.
15. Allows DHS or its designee to visit and inspect registered OST providers during its hours of operation to determine if the provider complies with the statutorily prescribed requirements and any applicable health and safety standards established by DHS for OST providers serving school-age children.
16. Allows the Director of DHS to impose a civil penalty on a person who violates OST registration requirements or rules, not exceeding \$100 per violation.
17. Requires the Director of DHS, unless the OST provider registration is revoked or suspended, to place OST provider registration on provisional registration status for a maximum period of six months, subject to civil penalty and other imposed penalties.
18. Requires DHS's instrument documenting compliance and noncompliance of child care facilities to also document compliance and noncompliance of registered OST providers, according to the prescribed criteria in applicable DHS rules.

19. Requires DHS to deposit 90 percent of the fees collected for OST provider registration in the Health Services Licensing Fund and deposit the remaining 10 percent in the state GF.
20. Requires DHS to make at least one unannounced visit annually.
21. Allows DHS to adopt rules for OST provider registration and administration.

OST Provider Registration Denial, Suspension and Revocation

22. Allows DHS to deny, suspend or revoke a registration for a violation of the statutorily prescribed requirements for OST providers or any applicable health and safety standards established by DHS for OST providers serving school-age children.
23. Requires DHS, at least 30 days before denying, suspending or revoking an OST provider registration, to mail the applicant or registered OST provider a notice of the OST provider's right to a hearing.
24. Requires DHS to issue the hearing notice by registered mail with return receipt requested and requires the notice to state the hearing date and the facts constituting the reasons for DHS's action and to cite the specific statute or rule the OST provider is violating.
25. Requires DHS, if the registered OST provider does not respond to the written notice, to take the action prescribed in the notice at the expiration of the time fixed in the notice.
26. Allows DHS to grant the registration or withdraw the notice of suspension or revocation, if the OST provider conforms the application or the operation of the provider to the applicable statute or rule within the period fixed in the notice.

Miscellaneous

27. Authorizes DCS to use the information contained in the central registry as a factor to determine qualifications for all employees and board members of a registered OST provider as well as OST volunteers who work with children.
28. Includes, in the definition of *child care personnel*, any employee or volunteer working at a registered OST provider and applies fingerprinting requirement to OST provider employees and volunteers.
29. Includes, in the definition of *child care providers*, registered OST providers.
30. Makes technical and conforming changes.
31. Becomes effective on the general effective date.

Amendments Adopted by the Appropriations Committee

1. Requires, rather than allows, DHS to register an OST provider that applies for registration and meets outlined requirements.

2. Authorizes DCS to use the information contained in the central registry as a factor to determine qualifications for all OST provider employees, board members and volunteers.
3. Removes, as a requirement for the child care facility licensure exemption, conduction of child abuse and neglect registry checks.
4. States that the child care facility licensure exemption does not apply to an OST provider if the provider would otherwise meet another outlined exemption or licensure requirement, unless the OST provider submits a notice of its intent to register with and be exempt from DHS licensure.
5. Allows the Director of DHS to impose a civil penalty on a person who violates the registration requirement, or the related rules adopted.
6. Requires the Director of DHS, unless the OST provider registration is revoked or suspended, to place OST provider registration on provisional registration status for a maximum period of six months.
7. Requires DHS's instrument documenting compliance and noncompliance of child care facilities to also document compliance and noncompliance of registered OST providers, according to the prescribed criteria in applicable DHS rules.
8. Describes allocation of OST registration fees.
9. Makes technical and conforming changes.

House Action

Senate Action

HHS	2/13/23	DPA/SE	7-2-0-0	HHS	3/21/23	DP	7-0-0
3 rd Read	3/7/23		36-24-0	APPROP	4/4/23	DPA	9-1-0

Prepared by Senate Research

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MG/MC/slp